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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ANNE BRYANT, ELLEN BERNFELD,  
and GLORYVISION, LTD.,

Doc. No. 07-Civ-3050 (CLB)

Plaintiffs,

-against-

**DECLARATION OF MICHAEL  
KORIK IN OPPOSITION TO  
DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT**

EUROPADISK, LTD., MEDIA RIGHT  
PRODUCTIONS, INC., VERY COOL MEDIA,  
INC., DOUGLAS MAXWELL, THE ORCHARD  
ENTERPRISES, INC. and RUSSELL J.  
PALLADINO,

Defendants.

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I, Michael Korik, declare under penalty of perjury in  
accordance with the law of The State of New Jersey, the  
following:

1. I am an Associate at Monaghan, Monaghan, Lamb &  
Marchisio, LLP and a member of the Bar of this Court. I am  
admitted to practice in both New York and New Jersey and  
together with Patrick J. Monaghan, Esq., am principally  
responsible for the prosecution of this case on behalf of

Plaintiffs.

2. I submit this declaration in opposition to Defendants' Motion for Summary Judgment.

**Defendants' Motion Mischaracterizes  
This Case As a "Simple Contract Case"**

3. Defendants' motion labels this matter a "simple contract case" neglecting the fact that unauthorized copies of Plaintiffs' recordings were made and distributed by Defendants in violation of the Copyright Act and copyright rights held by Plaintiffs. This is not a "simple contract case."

4. Among other issues and elements which pointedly undermine Defendants' claim of an absolute "contract case" and preclude summary judgment are: (1) the existence of a written agreement explicitly authorizing the distribution of CDs and tapes ONLY and (2) admissions from Defendants that they sold over 4,605 copies of Plaintiff's recordings. See Exhibit "1" annexed to Defendants' Motion for Summary Judgment (Product Representation Agreement) at Paragraph 2 ("Media Right Productions is hereby granted the authority to act as agent and representative, on a non-exclusive basis, for the CDs and tapes entitled 'Songs For Dogs' and 'Songs For Cats' and 'Songs For Dogs CD and Book'."); see also Exhibit "F" documenting total sales of unauthorized

digital copies by Defendants.

5. Each of Defendants' claims:

- a. Defendants were authorized to market and sell Plaintiffs' recordings; and
- b. Any unauthorized use was innocent, unintentional and not willful; and
- c. There were no actual damages

are erroneous, unfounded and completely misguided, as discussed in the accompanying Memorandum of Law.

6. Based upon the foregoing and upon the accompanying Memorandum of Law, Defendants' Motion for Summary Judgment cannot be granted and should be denied in its entirety.

I hereby declare the foregoing to be true under penalty of perjury as to those matters known to me. As to the references to the Exhibits listed above, I have seen and reviewed each of those documents which I reference and believe them to be true and accurate.

Dated: June 19, 2008

A handwritten signature in dark ink, appearing to read 'Michael Korik', written over a horizontal line.

Michael Korik (MK0377)